IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 6TH SEPTEMBER 2007 / 15TH BHADRA 1929

Bail Appl..No. 5342 of 2007()

[CRIME NO.205/2007 OF ALAKODE POLICE STATION]

PETITIONER/ACCUSED NO.1 & 2:

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1. KOOTINAL MANOJ, AGED 32 YEARS,
S/O. GOPALAN K.K., RESIDING AT ALAKODE AMSOM,
ARANGAM DESOM.

2. KATTUMATTAM MOHANAN, AGED 33 YEARS,
S/O. RAJAN K.A., RESIDING AT ALAKODE AMSOM,
ARANGAM DESOM.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING SUB INSPECTOR OF POLICE,
ALAKODE POLICE STATION.

BY
PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5342 of 2007

Dated this the 6th day of September 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations inter alia under Section 332 I.P.C. The crux of the allegations against the petitioners is that they deterred and assaulted the de facto complainant, a person employed with the Kerala Water Authority. He was allegedly obstructed in the discharge of his official duties. The alleged incident took place on 14/8/2007. The crime was registered on 15/8/2007. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioner submits that the allegations raised are totally false and incorrect. The petitioners may be granted anticipatory bail and saved of the undeserved trauma of arrest and detention, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. Allegations raised are true. Satisfactory data has been collected in support of the allegations. There is no reason to assume that the allegations are raised vexatiously. The allegations raised reveal a grievous and serious crime. Persons trying to extract sand illicitly, who were obstructed, had turned their ire against the official and he was assaulted. In these circumstances anticipatory bail may not be granted to the petitioner, submits the learned Public Prosecutor.

4. In the nature of the contentions raised, it is felt that the case diary must be produced before court. The case diary has been produced by the learned Public Prosecutor and I have perused the same. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to find any features in this case which would justify the invocation of the extraordinary equitable discretion available to this court under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is an eminently fit case where the petitioners must resort to the ordinary and normal course of appearing before the investigating officer or the learned Magistrate having jurisdiction. They must then seek regular bail in the ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007